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SECTION 1

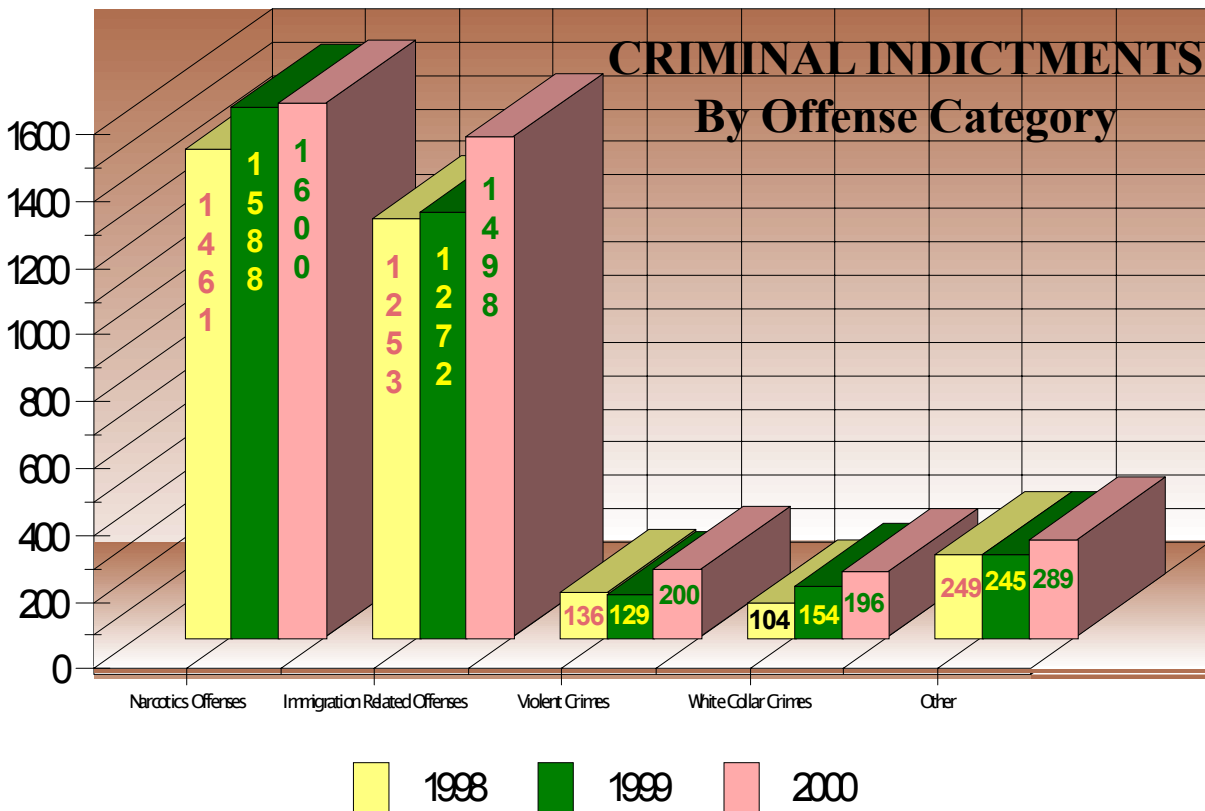
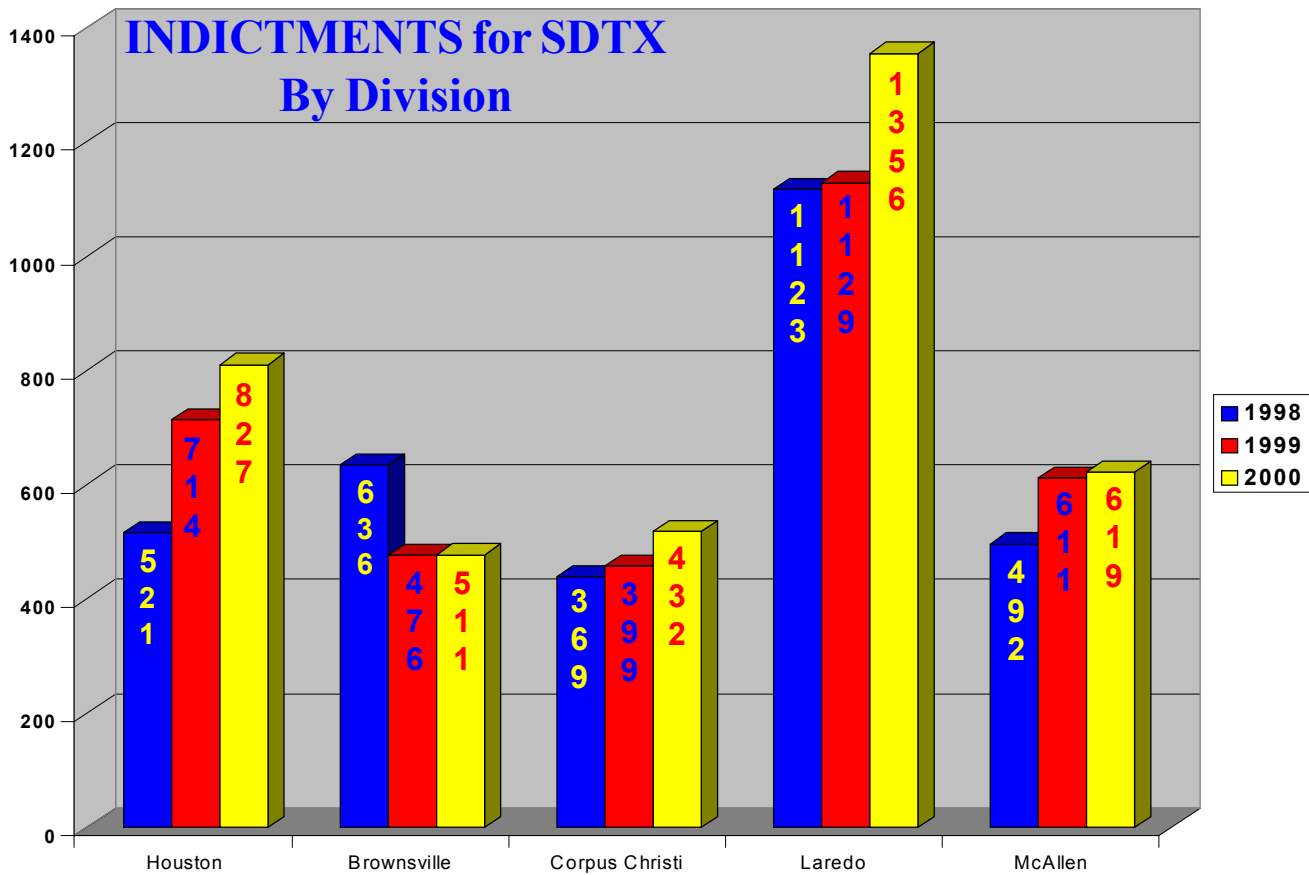
PROSECUTION OF CRIMINAL OFFENSES

Illegal Drugs
Violent Crime
Immigration
Child Exploitation
Firearms
Organized Crime
White Collar Crime
Public Corruption
Civil Rights
Environmental
Post-Trial Litigation

PROSECUTION OF CRIMINAL OFFENSES

The responsibility to prosecute criminal violations of the laws of the United States requires that we work closely with investigative agencies to ensure a coordinated and effective law enforcement response to the problems of crime and violence in the district. Prosecution priority is on crime threats that have exclusive federal jurisdiction or are uniquely national or international in dimension. These cases involve drug trafficking, organized crime, terrorism, white-collar crime, civil rights, environmental and immigration violations, and gang related violence. In 2000, the office initiated a record number of narcotics cases, expanded prosecution of firearms offenses through the district-wide Gun Violence Reduction Initiative and the Texas Exile Project, and continued to prosecute elected and appointed officials at all levels of government who abuse their office and the public's trust.

This district has consistently managed one of the busiest criminal litigation dockets in the nation. In 2000 this caseload grew to record levels. The attorneys and support staff managed this exceptionally demanding litigation responsibility with caseloads of over 3700 indictments and criminal informations involving over 4800 defendants through hard work and efficiency, and with the effective cooperation of investigative agencies.



ILLEGAL DRUGS

The district's first goal in the prosecution mission is to reduce the availability and abuse of illegal drugs through traditional and innovative enforcement efforts. The large volume of criminal indictments reflects the "front line" nature of the district with its 455-mile Rio Grande River border with Mexico, its major sea ports and international airports.

The district's focus remains on the long-term and complex investigations that target major drug trafficking organizations. The district's strategic approach to trafficking in illegal drugs is two-fold:

- ❑ Support regional strategies within the district that focus multi-agency investigation to identify, disrupt and dismantle major drug organizations along all points of the production, transportation, and distribution chain, and
- ❑ Encourage multi-district, national and international investigative and prosecutorial efforts that affect drug trafficking activities in the district.

The cases summarized here illustrate the type of multi-agency investigations and extensive prosecution efforts of the district.



OPERATION SNOW BOAT

Officials from the U.S., the U.K., the Netherlands, France and Puerto Rico were part of a multi-agency effort which led federal agents to two ocean freighters resulting in the seizure of over 10 tons of cocaine. The U. S. Coast Guard boarded the M/V Cannes on the high seas and found five tons of cocaine. A few months later the British Navy, acting on a DEA alert, stopped the China Breeze at sea. Members of a special U. S. Coast Guard drug interdiction team boarded the China Breeze south of Puerto Rico and seized another five tons of cocaine inside a false sewage tank secreted behind the ship's cargo of 16,000 metric tons of raw sugar. The cocaine was loaded onto the China Breeze by use of speedboats. The cocaine cargo was to be taken offshore in the same manner once it reached its final destination.

This OCDETF initiative involved the successful prosecution of ten defendants whose drug trafficking activities were part of a maritime cocaine trafficking cell. The organization was based in Greece, employed Ukrainian sailors, and transported wholesale quantities of cocaine for Colombian suppliers. AUSA: Eric Reed; AGENCY: DEA, USCG, USCS, Galveston County Sheriff.

30 YEARS FOR CEO OF MULTINATIONAL DRUG TRAFFICKING ENTERPRISE

The district led a nation-wide investigation named Operation Fatal Attraction in which Houston-based investigators seized

over 4,000 kilos of cocaine, 65 luxury cars and SUVs, a boat, and

over \$1 million in currency. The two-year investigation focused on an international drug trafficking ring led by Hernan Payan-Paz. The investigation relied on sophisticated electronic surveillance to track the shipment of drugs in 18-wheeler trucks and luxury cars. The criminal enterprise included a car lot which served to procure load vehicles and outfit them with false compartments. Twenty defendants were indicted in Houston, and during the past year ten were convicted, with Payan receiving 30 years. Five are fugitives. The investigation also resulted in drug convictions in Florida, Mississippi, Louisiana, New York, Chicago, San Diego and Los Angeles. AUSA: Martha Minnis; FBI and DEA led this multi-agency initiative of the ONDCP-funded Houston High Intensity Drug Trafficking Area (HIDTA).

ECSTASY SEIZURE

An OCDETF and HIDTA investigation resulted in the arrest of six couriers who were part of an international ring that imported 3,4 methylenedioxy methamphetamine from Europe. This drug, known as Ecstasy, has grown rapidly in



popularity with young people and is commonly associated with all-night rave clubs. Ecstasy, which has both methamphetamine and hallucinogenic effects, is manufactured primarily in Europe and packaged in pill form. The wholesale price is about one dollar per pill. An Ecstasy pill sold at a dance club in Houston costs \$20 to \$40 each. Agents seized about 200,000 pills in Houston during this investigation. The six couriers entered guilty pleas, and the ringleader of the organization, Jacob Orgad, is currently charged in New York City. AUSA: Mark McIntyre; AGENCY: DEA.

LIFE FOR LAREDO DRUG KINGPIN

This OCDETF investigation targeted the narcotics and money laundering activities of the Ernesto Ramirez organization.

After a two-year investigation, Ramirez and 23 others were charged with

smuggling over a ton of drugs into the U.S. The organization would hide cocaine and marijuana in sealed packages or acetylene tanks and ship the drugs in private cars, Greyhound buses, UPS, Federal Express, and Airborne Express. Drug proceeds were then driven back to Laredo or wired utilizing Western Union Money Transfer. More than \$700,000 was wired through



Western Union alone. Ramirez was sentenced to life after being linked to the murder of Aubrey Baker Jr., whose body was discovered on a street in Laredo.

Twenty-one other defendants have been convicted by trial or plea and sentenced to terms ranging from 2 years to 20 years as a result of this investigation. One fugitive remains at large.

AUSA: José Angel Moreno;

AGENCY: DEA, U. S. Customs Service, IRS-CID, & Laredo Multi-Agency Narcotics Task Force.

TOMBALL CRACK COCAINE RING

Billy Ray Ishup, owner/manager of Sugar's Hideaway in Tomball, was one of several Tomball area residents charged with trafficking in crack cocaine. A jury found Ishup, 44, guilty after trial evidence showed that crack cocaine was sold openly at Sugar's. The indictment was the result of a joint investigation between the Mobile Enforcement Team (MET) of the Houston office of the Drug Enforcement Administration and the Tomball Police Department. The remaining five defendants entered guilty pleas. AUSA: Bob Stabe. AGENCY: DEA.

HEROIN IN LAREDO

U.S. Customs officers were tipped off about a plan to transport between ten and twelve kilos of heroin from Mexico to St. Louis via Laredo. With this information, Customs agents in Laredo identified a vehicle in which over two kilos were concealed in the battery of the vehicle.



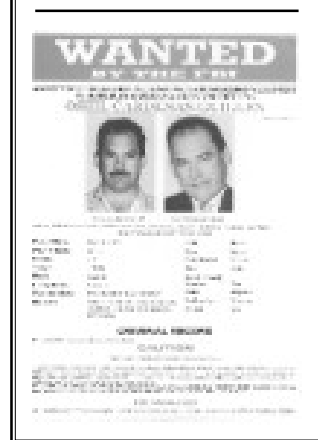
Agents followed the vehicle to St. Louis where the battery was delivered to Keith Williams at a hotel room.

Williams and several co-conspirators were indicted and have pled guilty to a charge of conspiracy to possess with intent to distribute approximately ten kilos of heroin. The heroin seized was valued at \$300,000 to bulk rate dealers in Laredo, and up to \$2 million if sold to individual users in St. Louis. AUSA: Mary Lou Castillo & Noelle DiMarco. AGENCY: U. S. Customs.

RESIDUE OF THE GULF CARTEL

In December, federal indictments were unsealed in Brownsville, McAllen and Houston charging various individuals with drug trafficking and with assault of a Cameron County Sheriff's investigator, FBI, and DEA Special agent. The task force was following up on drug traffickers' threats to kill federal agents. The indictments are the result of an OCDETF investigation into the trafficking activities of the remnants of the Gulf Cartel once led by the imprisoned Juan Garcia Abrego. U. S. Attorney Mosbacher announced a \$2 million State Department-sponsored reward for information leading to the arrest and prosecution of Oziel Cardenas Guillen, Juan Manuel Garza Rendon, aka "La Brocha" Adan Medrano, aka "El Licenciado."

\$2 Million Reward for information leading to the arrest and prosecution of Oziel Cardenas Guillen



Over 16,000 pounds of marijuana, 600 pounds of cocaine and more than \$800,000 in U.S. currency have been seized in this investigation. In 2000, 34 defendants had been indicted in the operation resulting in the conviction of 25. Nine are currently fugitives. The investigation identified several organization members and their methods in utilizing several different transportation cells to transport narcotics throughout the United States. Seizures attributed to this organization have occurred in Brownsville, Houston, San Antonio, Corpus Christi and Austin and in Illinois, Ohio, Georgia, and Florida. The investigation also helped provide information that assisted in the arrest and successful prosecution of 23 individuals in a related San Antonio OCDEF investigation. AUSA: Jody L. Young and Jesse Rodriguez. This OCDEF investigation was led by the FBI and U.S. Customs Service, along with the DEA, INS, Cameron County Sheriff's Office, Brownsville PD, and Texas DPS.

FORMER GALVESTON POLICE OFFICER LED DRUG RING

Mario Espinosa was caught at the Brownsville/Matamoros Bridge border checkpoint trying to smuggle a 72-pound load of marijuana into the U.S. concealed in the tires of a pickup. Investigators found that the truck was owned by Ray Cruz, a former Galveston police officer. Espinosa was indicted on drug trafficking charges and entered a guilty plea immediately before jury selection. Espinoza identified Cruz in open court as the person for whom he smuggled marijuana into the country. Further investigation linked Ray Cruz's brother,

Marcos Cruz, to the drug trafficking conspiracy. The Cruz brothers were charged and convicted after a three-week trial which featured several cooperating drug dealers identifying the Cruz brothers as major drug suppliers for the Galveston area. The trial also included evidence that the Cruz organization paid others to cook the powder cocaine they acquired before they would sell it to their various customers. Ray and Marcos received 15 and 10 year sentences, respectively. AUSA: Ken Dies; AGENCY: DEA, Galveston PD, League City PD.

PROMINENT SOUTH TEXAS ATTORNEY WAS CIVIC LEADER & DRUG PILOT

Alfonso Ibanez was on the Board of Directors of the McAllen public school system and longtime Rio Grande Valley attorney. Ibanez was using his personal airplane to fly loads of cocaine and marijuana from Edinburg to the San Antonio area.



He was charged with drug trafficking in the McAllen Division and sentenced to 70 months on his guilty plea. Ibanez forfeited all rights to his Lincoln Continental, Suburban, airplane and his law office. AUSA: Terry Leonard; AGENCY: FBI.

RIO GRANDE VALLEY MINISTER TO PRISON FOR DRUG TRAFFICKING

Gabriel Rodriguez, an evangelical minister of McAllen and owner of El Bendecido (The Blessed) Auto Sales in Alamo, was also a leader

Marijuana packages were routinely hidden inside door panels.



of a drug trafficking organization that used

nominee purchasers to buy cars for hauling drugs.

Part of his MO was to employ middle-aged women driving ordinary-looking cars and vans to transport

the drugs north. He also rented several houses for storing and packaging marijuana and the currency the business generated.

Several members of the organization have been convicted of drug and money laundering conspiracy. From 1992 until 2000 the organization smuggled marijuana from the Rio Grande Valley to Houston and beyond to out-of-state buyers. The leaders of

the organization included Jose Rodriguez who owned a second-hand refrigerator shop which served as a front for the conspiracy. Law enforcement agencies made nearly 40 seizures of marijuana, many of which occurred at the U. S. Border Patrol checkpoints in Sarita and Falfurrias. AUSA: Eric Reed, John Patrick Smith, and Luis Martinez; AGENCY: OCDETF.



Machines used to tightly package marijuana.

CORPUS CHRISTI DRUG RING EMPLOYED PRISON GANGS

The Silvestre Maldonado drug organization, until last year, was the largest criminal enterprise in Corpus Christi importing both multi-pounds of methamphetamine and multi-kilograms of cocaine from Mexico. The methamphetamine and cocaine smuggled into Corpus Christi were distributed both within the Corpus Christi area and to locations throughout the United States. This organization also utilized the services of both the Texas Syndicate prison gang and the Bandido

Motorcycle Gang to distribute the drugs and collect drug debts owed. They have operated within the Corpus Christi area for the last 20 years. Twelve individuals have been convicted, including Silvestre Maldonado and four of the organization's higher echelon members. Maldonado received a 25-year prison sentence. AUSA Patti Booth. The case was an OCDETF investigation conducted by the FBI, DEA, U. S. Customs Service, INS, IRS-CID, TX DPS, and Corpus Christi PD.

VIOLENT CRIME

The prosecution efforts to reduce violent crime are based on three strategies:

- ❑ Expand prosecution of firearms offenses through referral agreements among federal, state and local law enforcement agencies and State prosecutors.
- ❑ Support comprehensive, multi-agency strategies to identify, penetrate and dismantle organized criminal enterprises, including prison gangs engaged in illegal activity.
- ❑ Expand prosecutions to remove illegal immigrants involved in violent gangs and criminal activities.

The following cases are representative violent crime prosecutions during the past year. These cases have resulted in long, no-parole prison terms for violent criminals and those who use the Internet to exploit children.

CAB-JACKING ON THE BORDER

Two cousins, Luis Palomo and Israel Magana, pretended to be drunk when they hailed a cab at the border between Reynosa, Mexico and Hidalgo, Texas. They told the driver to take them to Mission, Texas. When they got to a rural area near Mission the two passengers attacked the driver and took his money, cell phone and the taxi itself. The pair used the cab driver's cell phone to call friends and brag about their adventure. Through the FBI Safe Streets Task Force, investigators of the Mercedes Police Department and the Hidalgo County Sheriff's Office worked with FBI Special Agents to identify and locate the two by tracing the calls they made. Magana pled guilty and was sentenced to 46 months. Palomo demanded a trial, was convicted and sentenced to 8 years. AUSA: Luis Martinez. AGENCY: FBI.

71 YEARS - NO PAROLE FOR SHOOTING SECURITY OFFICER DURING BANK ROBBERY



John Anthony Taylor robbed two Houston-area banks and shot Wilber White, a security officer, in the head during one of the robberies.

A federal jury found Taylor guilty, and U.S. District Judge Lynn Hughes sentenced him to 852 months in federal prison, from which there is no parole. AUSA: Don Calvert; AGENCY: FBI, HPD & Harris Co. Sheriff's Office.



PRO SE THREATS

Michael Jackson, a TDC inmate serving time on habitual burglary and assault convictions, was charged with mailing threatening letters to a federal judge and a district clerk. Jackson had filed three civil suits in Dallas-based U.S. District Judge Mary Robinson's court complaining of mistreatment while in state prison. Judge Robinson dismissed all three of Jackson's civil suits as frivolous. Jackson sent hand-written letters to the Judge and U.S. District Clerk Nancy Doherty threatening kidnapping, specific sexual assaults, and life threatening bodily injuries when he gets out of jail. Jackson was convicted, and will spend time in federal penitentiary after completing his TDC sentence. AUSA: Mike Schultz; AGENCY: FBI.

"JUST-A-JOKE" DEFENSE FAILS

Eighteen-year-old Eduardo Morales was skipping school and surfing the Internet. Morales, at a home in Houston, logged onto the Latino Teen chat room. In corresponding with a Seattle-area woman, he sent her a message that said he was going to kill the teachers and students at Milby High School in Houston. The woman became concerned and contacted her local police. Houston law enforcement was alerted and Morales was arrested and charged with making threats over the Internet. A jury did not believe Morales' claim that the threat was a joke. Morales was sentenced to two years probation and 200 hours of community service. AUSA: Andrew Bobb; HPD & HISD Police.

KIDNAP CHARGES FILED AGAINST HOUSTON MAN



Seven year-old Natali did not return home after a trip on her bike to a nearby bakery in East Houston. Her sister remembered she saw a man following her. A week after she was lost, FBI agents found her at a church in Miami thanks to a tip from a Houston bus company. Natali's neighbor, 24-year-old Mexican national, Rodolfo Torres-Herrera, was returned to Houston where he stood trial and was convicted of the kidnapping. He faces a possible life sentence and fines up to \$250,000. AUSA: Don Calvert; AGENCY: FBI & INS.

IMMIGRATION CRIMES

As a key component of the Attorney General's Southwest Border Initiative, there has been a commitment to increase the staffing of agencies on the border. For the last five years, the combined presence of Border Patrol and the Immigration and Naturalization Service has more than doubled in the district. This increased staffing has had a direct impact on reducing crime rates in the area. The vastly increased law enforcement presence has also tremendously increased the workload of the prosecutors in the border offices.

The number of immigration defendants prosecuted in the district has increased by over 400% in the last 5 years. This year the district expects to prosecute more than 2000 defendants for felony immigration violations.

The district has focused its immigration prosecution efforts on cases involving only felony immigration violations. In spite of that, the district ranks third nationally in total number of immigration defendants prosecuted. This explosion in prosecutions has strained staff resources of the district, especially in the branch offices. For example, last year criminal prosecutors in Laredo indicted more than 200 felony cases each. This is the highest caseload per Assistant U.S. Attorney in any division in the country.

REPEAT OFFENDER TO SPEND FEDERAL TIME BEFORE DEPORTATION

Oscar Hernan-Arroyo, a 23-year-old Mexican citizen had been deported from the U.S. on two occasions, once following a felony conviction for possession of cocaine and a second time after being convicted for selling counterfeit alien registration cards and social security cards to HPD officers. Hernan was back in the U.S. when he was arrested again as he attempted to sell counterfeit alien registration cards and social security cards to an undercover INS agent. Hernan pled guilty to trafficking in counterfeit U.S. documents and illegally entering the U.S. He was sentenced to six and one-half years. AUSA: Judi Lombardino; AGENCY: INS.

REENTRY-AFTER-DEPORTATION

Defendants prosecuted for illegal reentry are convicted felons with histories of violent crime, drugs, weapon possession or numerous reentries into the U.S. The following are representative cases:

Enrique Mendoza-Gil, 29, a citizen of Mexico, sentenced to 96 months. The defendant has prior convictions for cocaine and marijuana trafficking, theft, and a firearms offense.

Juan Carlos Reyes-Pedraza, 25, a citizen of Mexico, sentenced to 77 months. The defendant has prior convictions for assault, grand larceny, resisting and evading arrest, theft, possession of crack cocaine, unauthorized use of a motor vehicle, and failure to identify as a fugitive from justice.

Martin Fraga-Araigo, 43, a citizen of Mexico, sentenced to 71 months, with six prior DWI convictions and one conviction for possession of cocaine.

Juan Villasana-Galnares, 49, a citizen of Mexico, sentenced to 46 months, with prior convictions for attempted rape, aggravated sexual assault of a child, discharge of a firearm, disorderly conduct and criminal mischief.

Marco Tulio Cavieles-Godoy, a citizen of Honduras, sentenced to 85 months, with prior convictions for theft, indecency with a child, burglary of a habitation, drug possession and escape.

AUSA: Doug Davis; AGENCY: INS.

EXPLOITATION OF CHILDREN

The district has one of the most effective programs in the nation to combat child exploitation.

Major Crimes prosecutors work in close cooperation with the FBI, U. S. Customs Service, Postal Inspectors and local law enforcement to disrupt distribution of child pornography and the exploitation of children, especially over the Internet.

In 2000, the district led the nation in cases filed against persons who use the Internet to lure children for sex. The district was second in child pornography cases.

THIRTY YEARS FOR INVETERATE PEDOPHILE

A routine traffic stop by officers of the Texas A&M Police Department led authorities to Jonathon Tampico, a fugitive wanted on a 1998 California indictment. Tampico, 50, had a long history of sexual abuse of children. Tampico's flight to avoid prosecution in California had been featured on the Americas Most Wanted television show days before his capture in College Station. His arrest and the subsequent search of his residence by the FBI and College Station Police Department led to the discovery of thousands of child pornography photographs. All the pictures were of prepubescent boys, as young as age 3 or 4 up to age 14, engaged in a variety of explicit sex acts with other children or adult men. He also had numerous photos of young boys in sadistic scenes of bondage engaged in explicit sex acts with older men, numerous typed manuscripts of stories of young boys in sexual bondage

to adult men, and audio tapes of young boys engaged in sex acts. Tampico was convicted after trial and was sentenced by U.S. District Judge Vanessa Gilmore to 360 months in federal prison. AUSA: Mike Schultz; AGENCY: FBI, College Station Police Dept. & Freemont California Police Dept.

POLICE SPOIL PARTY PLANS

Charles Grady Taylor, a prominent 47-year-old businessman from Biloxi, used the Internet to engage in on-line conversations with an individual he thought was a 13-year-old girl living in Houston. He made plans to travel to Houston to meet the girl at a parking lot of a grocery store near her middle school. Taylor traveled from Mississippi for the Houston rendezvous with a box of lingerie. He was met at the parking lot by adult law enforcement authorities who arrested him for traveling in interstate commerce for the purpose of engaging in a sexual act with a minor. Taylor is now serving an 18-month prison term. AUSA : Charles Escher; AGENCY: FBI & HPD.

CHILD PORNOGRAPHY ON FIRE MARSHAL'S COMPUTER

A computer technician working on the Webster Texas Fire Department computers found child pornography being stored in a fire marshal's computer. An investigation confirmed the technician's suspicions, and Fire Marshal Wesley Slanina was arrested and convicted of possession of child pornography. Slanina was sentenced to 33 months and a \$2000 fine. AUSA: Daniel Rodriguez; AGENCY: FBI.



The U. S. Attorney's Office has a partnership with the Texas Attorney General and the Governor's Criminal Justice Division to enhance the prosecution of armed criminals and reduce gun violence under the Texas Exile initiative.

In 2000, two Special Assistant U. S. Attorneys were assigned to the district through an agreement with the State. The special prosecutors work with prosecutors of the Major Crimes Section to apply federal laws that remove armed criminals from our communities. Over the last three years the number of firearms prosecutions in the district has increased by more than 300 percent. In fiscal year 2000, the district's 197 indictments for firearms offenses ranked third in the nation in number of firearms prosecutions. The cases highlighted here are a small sample of the district's efforts to apply federal law to reduce gun violence.



GUN CRIME MEANS FEDERAL TIME FOR STATE PAROLEE

Ramcey Theophus Hamp is 20, and has been convicted in State court for three separate drug felonies. His fourth State felony conviction was in September 1999 on a firearms charge. Hamp was sentenced in Harris County to serve two years in prison. He was paroled in February 2000 after serving five months. Hamp was on parole when uniformed HPD officers recognized him on a Houston street and tried to approach him. Hamp bolted, and the officers watched as he tossed an object between two parked cars while running. It turned out to be a loaded 9 mm. pistol. The officers caught up with Hamp and found him busy chewing. That turned out to be 2.1 grams of crack cocaine. Hamp admitted that he had the pistol for protection while dealing drugs, and also knew the gun was stolen, probably in a burglary.

Hamp was charged in federal court under the Texas Exile program, and will serve nearly all of his 9-year sentence in a federal penitentiary from which there is no parole. AUSA: Ashley Chapman; AGENCY: ATF & HPD.

SECOND TIME AROUND MEANS MANDATORY 25, PLUS ...

Harris Co. Constable's Office Precinct 4 deputies saw the Dodge Durango weaving so they pulled it over. The driver was clearly intoxicated. He drove up on a curb in front of the deputies. The deputies discovered over 36 grams of individually packed, powder cocaine and a semi-automatic weapon with a loaded 30-round magazine in the SUV. Christopher Almaraz was arrested on federal drug and gun possession charges. Almaraz had a prior federal conviction for a firearms violation and served 5 years for that offense.

Almarez went to trial in December 2000, and a federal jury found him guilty. As a two-time firearm offender, he faces mandatory imprisonment for 25 years for possessing a firearm in the course of a narcotics offense, in addition to the sentence he receives on the charge of being a felon in possession of a firearm. Sentencing is set for February before U.S. District Judge Kenneth Hoyt. AUSA: Ashley Chapman; AGENCY: ATF & Harris Co. Constable's Office.

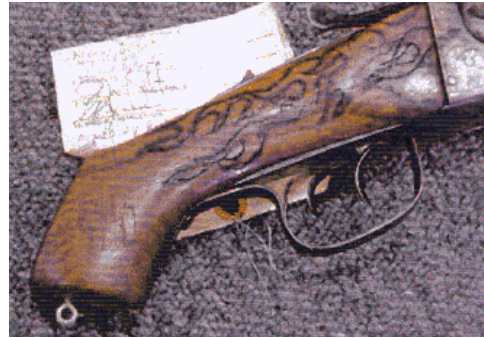
ARYAN TATOOS CONNECT CONVICTED BURGLAR TO GUN AND 10 YEAR SENTENCE

Rickey Wayne Lee is a tattoo artist who did his own tattoos on his arms, and



engraved the same white supremacist markings on the stock of his rifle. He was also a convicted felon with two burglary convictions

and a credit card offense.



When Lee was arrested on a North Carolina burglary warrant, ATF agents were able to connect him with the rifle with the stock designs that matched Lee's tatoos. A jury found Lee guilty of being a felon in possession of a firearm. Judge Lee Rosenthal sentenced him to ten years. AUSA: Jay Hileman; AGENCY: ATF.

PAROLE VIOLATOR GETS 17 YEARS

Corpus Christi police went to a house looking for George Cano who was in violation of his State parole. When the police drove in, Cano drove off. Officers chased him to the home of his estranged wife where he drove through a chain link fence and got out of his car with a gun at his head. He forced his way into the home where he held his pregnant wife and their children hostage for eight hours before a SWAT team persuaded him to unload the gun and surrender peacefully. Cano was charged in federal court as a felon in possession of a firearm. He was convicted and sentenced to over 17 years. AUSA: Elsa Salinas; AGENCY: ATF & Corpus Christi PD.

Lee tattooed the same white supremacist markings on his arms and his rifle.



ORGANIZED CRIME

The office has an Organized Crime Strike Force Unit which investigates and prosecutes traditional organized crime elements.

A growing area of organized crime involvement is in the smuggling of immigrants into the United States. The following two cases represent the international organized crime aspects in illegal immigration.

LEADER OF IMMIGRANT SMUGGLING OPERATION SENTENCED TO 27 YEARS FOR HOSTAGE-TAKING



Yung-Ming Chen, 39, was charged with taking an undocumented alien hostage in

Houston and demanding payment from relatives for her release. The female victim was part of a group that was smuggled from China by ship to Guatemala where they were placed in drop houses before being transported over land through Mexico to the Rio Grande River border with Texas. The Chinese would-be immigrants were smuggled over the border and taken to a Houston drop house, and later to a motel where they were held until they paid a "freedom fee." They expected to pay \$15,000, but the smugglers demanded \$40,000 each before they would be freed to travel on to New York.

Human trafficking is the fastest growing form of organized crime.

UN Office for Drug Control and Crime Prevention

A female victim was sexually assaulted while being held hostage. In an attempt to escape, the victim tied several bed sheets together and jumped from the second story window of the motel where she was being held hostage. The victim's back was broken while

trying to escape. Chen pled guilty and was sentenced to 327 months by U.S. District Judge Melinda Harmon. He was also fined \$100,000 and ordered to pay restitution of over \$98,000. Two other defendants were also charged and sentenced. All defendants face deportation after their prison terms. AUSA: Edward Gallagher & Joseph Magliolo; AGENCY: FBI, INS & HPD.

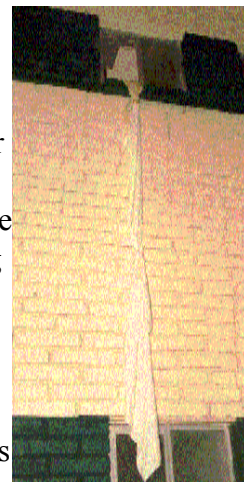
BANGKOK-BASED RING SPECIALIZED IN SMUGGLING FEMALES FOR PROSTITUTION

An international smuggling ring based in Bangkok, Thailand, led by a woman and two men, specialized in illegally transporting young women from Thailand and China



into the United States. Kuok Tiong Lim used corrupt immigration officials in

Bangkok to smuggle Chinese nationals into the U.S. and to fraudulently obtain documents and facilitate the movement of immigrants from Thailand. Teenage girls smuggled from Thailand were forced to work at modeling studios in Houston until their smuggling fees were paid in full.



Last year, an undercover INS agent gained the trust of the ring by posing as a smuggler with connections with a

corrupt American INS official. The investigation showed how the ring imported people into the

U. S. for approximately \$18,000 each. One group of

Chinese nationals was flown to Houston and picked up by one of the smugglers who transferred them to relatives in New York City. Two other smugglers

Mai & Sakyai managed brothels in Houston and had previously imported females from Thailand for prostitution.



Phu Man



mai sakyai

managed brothels in Houston and purchased immigration documents for \$3,000 from the undercover INS agent. The investigation also led to the arrest of two Houston-based

Social Security Administration officials. The two SSA officials were charged with conspiring to provide social security cards to over 200 people based on fraudulent information. The smuggling operation was broken up, and the three identified smugglers were charged with conspiracy and immigration offenses.

The defendants pled guilty. One defendant received probation and two others received two-year prison terms.

Feds bust alleged smuggling scheme

By EDWARD HEGSTROM
Houston Chronicle

Federal authorities brought charges Monday against seven people who allegedly smuggled Thai women into Houston where they were forced to work locally as prostitutes.

The charges filed in U.S. district court came as the result of a ground-breaking international sting operation run by the Immigration and Naturalization Service. Undercover INS officers traveled to Bangkok, Thailand, and Santiago, Chile, to investigate the ring, according to

court papers.

Assistant U.S. Attorney Edward F. Gallagher III described the investigation as "one of the most significant of its kind ever done."

The indictment alleges that the Bangkok-based operation included two elements. Chinese immigrants paid a smuggling fee and were brought to the

United States and set free. Additionally, Thai women were brought to Houston and forced to work as prostitutes in local establishments known as "modeling studios." The women were required to work until the cost of their smuggling was paid off.

The charges come as national attention increasingly focuses on the smug-

The young women brought to the Houston modeling studios were returned to Thailand. AUSA: Ed

Gallagher and Arlene Reidy, DOJ

Anti-Smuggling Task Force; AGENCY: INS.

PROTECTION RACKET BUSTED, GANG LEADER GETS 35 YEARS

Hoa Duy Dinh, leader of a Houston street gang, was convicted of extortion, using a firearm during the commission of a crime of violence, and retaliating against a witness. The jury convicted Dinh on evidence that he and his associates extorted protection money from Vu Bida Billiards, a pool hall that opened in Houston in 1999. The jury found that Dinh entered the new business a month after it opened and demanded monthly payments from the owner for protection. When the owner refused, Dinh fired several shots into the pool hall ceiling with a pistol. The gang returned a few days later and beat up a customer in the neighborhood pool hall. The intimidation worked and the owner began making \$400-a-month payments to Dinh and three associates. When Dinh learned that the owner had contacted law enforcement about the extortion, Dinh called the owner to threaten him with retaliation.

When Dinh was arrested, one of his associates went to the pool hall, shot up the ceiling again and pointed the loaded pistol at the owner's head.

Feds use statute for first time here to prosecute Asian gang members

By DEBORAH TEDFORD
Houston Chronicle

A federal statute mainly reserved to prosecute mob bosses and Mafia henchmen is being used here for the first time to prosecute Asian gang members who allegedly victimize small business owners in the tightly knit refugee community.

Earlier this week, a federal grand jury indicted members of the Northside Chink Posse under the Hobbs Act, which targets criminal organizations that use threats to extort money from businesses engaged in interstate commerce.

Assistant U.S. Attorney Edward Gallagher said the Southern District of Texas has never before used the law to prosecute gang members, although it has been a successful tool in Los Angeles

and Chicago.

Gallagher said gang activity in the Asian community here is a serious problem, with gangs targeting small, family-run businesses, like cafes or pool halls.

But business owners, he said, are often reluctant to report threats to police for fear the gangs will destroy their businesses or harm their families.

Hoa Duy Dinh, Lac Hong Tran, David Nguyen and Hien Tan Hoang are accused of extorting up to \$200 per month from the owner of Vu Bida Billiards, 12078 Veterans Memorial Drive.

For about five months, the gang allegedly harassed the owner of the pool hall, which also sold food and alcohol. They looted the business of cigarettes, food and alcohol, threatening economic ruin and physical harm to ensure the owner's silence, Gallagher said.

When the owner realized he

could not afford to continue making the payoffs and stopped, Gallagher said, their threats became a reality.

Gang members beat a customer at the pool hall, fired gunshots into the ceiling and threatened to damage the property, according to the indictment.

Gallagher said the violent episode spurred the owner to contact the Harris County Sheriff's Department, which installed a video camera that recorded the gang members' threats.

Nguyen, who pleaded guilty, Dinh and Tran were arrested this month. The next evening, Hoang threatened to kill the owner's family and was charged with witness tampering, Gallagher said.

The Northside Chink Posse is said to have extorted as much as \$400 per month from businesses.

Dinh and Tran are set for trial July 10.

The four were arrested. Ring leader Dinh was sentenced to 35 years, two other gang members received 3 and 10 year sentences. The fourth is awaiting sentencing and faces up to 30 years for the additional intimidation after Dinh's arrest. AUSA: Edward Gallagher & Larry Eastepp; AGENCY: FBI & Harris Co. Sheriff.

A FAMILY ENTERPRISE:

STAGED AUTO ACCIDENTS

Nine family members were charged with defrauding various insurance companies through claims arising from staged automobile accidents. The scheme involved mail fraud and conspiracy in the submission of insurance claims documenting medical histories for treatment of non-existent or exaggerated injuries allegedly suffered by the accident participants. The treatment of purported patients was handled at four medical clinics set up by the defendants. The defendants recruited chiropractors and medical staff to treat the patients referred by runners who helped set up the staged accidents.

The defendants also recruited an attorney and leased and furnished a law office in order to handle the fraudulent settlements with various insurance companies including State Farm, Allstate, and GEICO. Of the 22 automobile accidents identified in the indictment, 12 involved Hoang family members as participants in the accident. The defendants set up a fictitious check-cashing business as a repository for the fraudulent insurance settlement checks. Subsequent withdrawals in amounts less than \$10,000 were used to keep the scheme in operation and to purchase a family residence.

The defendants all pled guilty and received sentences from 30 to 57 months. Judgments were entered forfeiting \$191,282 on the money laundering offense, ordering restitution to the defrauded insurance companies in the amount of \$521,606, and payment of \$584,632 in corporate taxes. In addition, two residences and a vehicle were forfeited on the finding that they had been purchased with the proceeds of the fraud. AUSA: Edward Gallagher & Jennifer Shasky, U.S. DOJ Organized Crime and Racketeering Section; AGENCY: IRS-CID & US Postal Service.

WHITE COLLAR CRIME

The district's prosecution strategy in white collar crime is to:

- ❑ Strengthen cooperation with investigative agencies of the state, local governments, and other federal agencies to ensure maximum impact of investigations and prosecutions,
- ❑ Work proactively with investigative agencies to identify, investigate, and prosecute white collar criminal offenses throughout the district, and
- ❑ Enhance public awareness of fraudulent practices and the consequences of this type of criminal activity.

White collar crime cases often involve multiple agencies pooling investigative resources. The health care fraud working group is an example of this cooperative approach to carry investigations. Prosecutors are assigned to work with investigators and remain responsible for cases from the investigative stage through the completion of trial-level litigation.

More complex cases require litigation teams of attorneys, investigators and paralegal specialists and sometimes translators.

The following cases represent prosecutions over the past year that targeted white collar criminals.

TAX EVADING ATTORNEY ORDERED TO PAY FOR PROSECUTION COSTS

Houston attorney George Bishop was sentenced to 18 months for failing to report over \$1 million dollars in legal fees and the evasion of more than \$300,000 in taxes. In addition to the prison sentence, U. S. District Judge Ewing Werlein ordered Bishop to pay more than \$9,000 for the government's costs of the trial. AUSA: Amy Lecocq & Tax Division Attorney Melissa Marquez; AGENCY: IRS.

HOUSTON MEN CONVICTED OF NBA SCAM

Moses Mays and Gene Price arranged for numerous NBA and WNBA teams to send autographed basketballs and jerseys for auction. The auction was ostensibly for a benefit they were going to hold in Houston for the late Kim Perrot, the cancer-stricken point guard for the national champion Houston Comets.



No benefit was held; Mays and Price kept these items. Both men were charged and convicted for soliciting items from the teams on the fraudulent pretext. AUSA: Mary Jane Harmon; AGENCY: FBI.

HOME HEALTH CARE FRAUD

The owners and operators of Houston-based Affiliated Professional Home Health Care Agency (APRO), were charged with conspiracy, mail fraud and money laundering. These charges stemmed from a scheme to submit millions of dollars in false and fraudulent expenses for reimbursement to the Medicare Program. The investigation also showed that defendants were paying illegal kickbacks to procure Medicare patients. Three defendants were convicted after trial. The defendants forfeited cars and real estate purchased with the proceeds of the offenses. AUSA: Albert Balboni & Michael Schwartz; AGENCY: DHHS, IRS, FBI.

CONTINENTAL AIRLINES SENIOR DIRECTOR & ASSOCIATE GUILTY

Judge ordered restitution of \$452,072.42 to be paid to Continental Airlines out of Schermock's assets previously forfeited to the government.

David Schermock, 61, worked at Continen-

tal Airlines from 1994 to 1998, as Director of Technical Purchasing, Director of Airframe Repair, Senior Director of Airframe Repair and Modification, and finally as the Acting Senior Director of Material Planning. In court he admitted that he orchestrated a kickback scheme for personal gain by assisting several of his business associates in securing third-party vendor contracts with Continental. Investigators found that Schermock and his friend Douglas Hyde, received 69 kickback payments totaling in excess of \$799,000. Hyde admitted that he and Schermock agreed to conceal their business relationship from Continental. They both pled guilty before U. S. District Judge David Hittner to conspiracy and fraud charges. AUSA: John Wagner, John Kinchen Mike Schwartz & Charles Escher; AGENCY: IRS & FBI.

WOMAN GUILTY OF LAUNDERING PROCEEDS OF MEDICARE FRAUD

Alice Joy Smith, who owned and operated

Touch of Care Home Health Inc., used the agency to bill hundreds of thousands of dollars of personal

expenses to Medicare disguised as legitimate health care expenses. Salaries totaling approximately \$143,000 were paid to two of Smith's grandchildren, despite the fact neither individual ever worked for Touch of Care. A twenty-nine count indictment charged Smith with mail fraud, money laundering and obstruction of a criminal health care fraud investigation. As a result of the fraudulent billing of personal expenses, Touch of Care received a Medicare reimbursement check in excess of \$500,000. Smith was sentenced to 21 months and ordered to pay restitution of \$1.2 million. AUSA: Albert Balboni; AGENCY: FBI, HHS-OIG.

INVESTMENT SCHEME

NETS 15 YEARS

David Schellhaas, of Houston, convinced several groups of investors from around the country to give him \$7 million to invest in a "secured high-yield investment program." The investors' money was to be placed in an offshore trading program in Europe.



Some of the Touch of Care property & vehicles derived with illegal proceeds.

He promised the investors large returns on their investments in a short time frame. The evidence showed that no such investment programs existed and that Schellhaas completely defrauded the investors. U.S. District Judge Melinda Harmon sentenced Schellhaas to 190 months after he was convicted by a jury of wire fraud and money laundering. The sentence imposed in this case is one of the longest in a fraud case in the district. AUSA: Julie Bowen Stern; AGENCY: IRS.

COUNTERFEIT SECURITIES

Seven individuals all pled guilty to possessing various counterfeit securities. Juan Ramon Castro, aka "Chino" and his girlfriend, Rosa Jaimes, led five others in a conspiracy to obtain money from various merchants and banks by passing counterfeit payroll checks of Manpower, Inc. The indictments resulted in the seizure of \$17,000 in currency. The monetary transactions in this case demonstrated \$2.5 million in fraud by the organization. Castro and Jaimes each received a three-year sentence and were assessed \$17,884 in restitution after pleading guilty. The remaining defendants received sentences ranging from 5 to 18 months in prison. AUSA: Jon Muschenheim; AGENCY: Corpus Christi PD & U.S. Secret Service.

PUBLIC CORRUPTION

Those who hold public office, whether elected, appointed or hired, bear special responsibilities in their positions. Prosecutors pay special attention to any violations that involve abuse of office by a public employee.

Criminal wrongdoing by any public official, especially one with law enforcement responsibilities, seriously undermines the trust which communities place in public officials. Prosecutors in the Public Integrity Unit of the Special Prosecutions Section work with agents to investigate charges of public corruption.

WEBB COUNTY CORRUPTION

In September 2000, five defendants were found guilty of conspiracy to commit Hobbs Act violations in a case-fixing scheme involving the Webb County District Attorney's Office in Laredo. This trial was part of an extensive public corruption investigation that became public with the execution of federal search warrants at the Webb County District Attorney's Office, the office of local bail bondsman Gregorio Jesus Castaneda, the Laredo law office of Ruben Garcia, and the home of Jose Rubio, Sr., the father of the Webb Co. District Attorney.



In 1998, attorney and former State District Judge Ruben Garcia pled guilty to a criminal information charging him with case fixing under the Hobbs Act. That same year a federal grand jury sitting in Laredo returned an indictment charging Webb County Assistant District Attorney Ramon Villafranca and others with conspiracy to commit Hobbs Act violations in the case fixing scheme with Ruben Garcia. Villafranca stood trial in Laredo in 1999 and was found guilty. The later trial stemmed from the July 1999 indictment of ten defendants with 21 counts of Hobbs Act and conspiracy violations relating to case fixing in Webb County. Those charged included two Webb County Assistant District Attorneys, three District Attorney Investigators, a bail bondsman, and the father, brother and cousin of the District Attorney. Jose Rubio, Sr. was sentenced to 51 months, Castaneda received 5 years, and defendant Carlos Rubio was sentenced to 32 months. AUSA: Don DeGabrielle, Marina Marmolejo-Garcia & Trey Martinez; AGENCY: FBI, Laredo PD, U.S. Customs, U.S. Border Patrol & IRS.

TDHCA BOARD MEMBER CONVICTED OF BRIBERY

Florita Bell Griffin, a board member of the Texas Department of Housing and Community Affairs (TDHCA) and her business partners were found guilty of bribery, theft, mail fraud and money laundering. Griffin was found guilty of accepting money and property in exchange for her support of an application for tax credits submitted to the TDHCA board which voted on approval of those applications.

She was convicted of conspiring with co-defendants to form a company which would be a part of a development team that would submit a proposal to TDHCA to build low income housing, the award of which would result in receipt of valuable tax credits.



Sentencing is set for March 2001. She faces up to 55 years imprisonment and fines up to \$2 million. AUSA: Gary L. Cobe; AGENCY: FBI & DPS.

AGENT SENTENCED IN MURDER-FOR-HIRE PLOT

Chief U. S. District Judge George Kazen in Laredo sentenced Salvador Martinez, a former DEA agent, to 87

Ex-DEA agent apologizes for plot

He gets 7 years for seeking hit man to avenge cousin's death

By MARK SMITH
Houston Chronicle

LAREDO — A former federal drug agent stood before a judge Friday and turned down a chance to prove his innocence, apologizing for trying to hire a hit man to avenge the 1995 slaying of his cousin.

Salvador Martinez's sentence of seven years in prison was the result of a guilty plea three months earlier. This could be the end of a tragic and complex border family saga.

But it probably isn't. Another cousin of Martinez's is the retired head of the Dallas office of the Drug Enforcement Administration, Phil Jordan. It was

Salvador Martinez still recalls the day his cousin was slain — he learned about it on his wedding anniversary.



the shooting death five years ago of Jordan's younger brother, Bruno, that Martinez was trying to avenge.

The way Jordan sees it, there are now two injustices: the murder of his 27-year-old brother, which he believes was financed by a drug cartel, and the prosecution

of his cousin, Sal, the result of an ongoing feud between the DEA and the FBI.

"When the FBI first got wind that Sal was talking recklessly, they should have notified the DEA, and Sal should have been ordered to return immediately to the United States, where he would have been disciplined and received counseling," Jordan said. "The FBI should have handled this much like they have for their own agents — keeping the matter internal."

Prosecutors have said that Martinez's plot was outrageous and demanded criminal prosecution. Said FBI Special Agent John De Leon in McAllen, "We took the

See DEA on Page 18A.

Miguel Flores. Martinez suspected Flores murdered Martinez's cousin in a 1995 robbery incident. In a detailed plea agreement, Martinez admitted that he had promised to pay a source \$10,000 in "investigative expenses" for Flores to be killed.

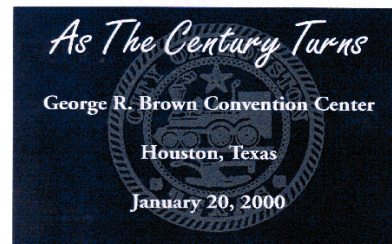
In September 1999, Martinez contacted the source by phone and the two agreed to meet in McAllen. Martinez met with the source, handed him an envelope and indicated that the envelope was regarding "El Primo" (the cousin). From October to December a series of conversations between Martinez and the source were recorded with the assistance of the FBI, which substantiated the existence of the agreement to kill Flores. Martinez was arrested after a search of his office at the U. S. Consulate in Monterrey, Mexico. Evidence from the search confirmed Martinez's plan to have Flores killed. AUSA: Mary Lou Castillo; AGENCY: FBI & DEA.

months in federal prison. Martinez was charged in December 2000, with hiring an individual to kill

TEXAS RANGERS TEAM WITH IG IN INVESTIGATION OF FEDERAL COUPLE

Brian Brown and his wife, Sylvia Longoria Brown accepted a \$3,500 bribe in return for providing information related to the sentencing of a federal defendant. Brown was a Special Agent with the U. S. Customs Service, and his wife, Sylvia Brown, was a contract employee with the U. S. Marshal's Service for the Southern District of Texas. AUSA: Larry Eastepp; AGENCY: OIG & Texas Rangers.

Eliminating
**HATE
CRIMES**



CIVIL RIGHTS

The Civil Rights Unit is responsible for prosecution of those who violate the civil rights of others. These federal offenses can be by officials acting under color of law or by those who seek to deny civil rights to others on the basis of race, religion or national origin. Cases presented in 2000 represent both forms of civil rights violations.

The office also sponsored a major seminar in Houston *Eliminating Hate Crimes*, to enhance public awareness and to promote prevention measures for these crimes.

CROSS BURNING IN KATY BRINGS 10 YEAR SENTENCED

Cross-burner gets 10 years

Group's leader apologizes to Ross family, city of Katy

By JO ANN ZURIGA
Houston Chronicle

The last of a group of young white men who burned a cross in the front yard of a black family in Katy was sentenced to 10 years in federal prison Monday.

Matthew Curtis Marshall, 21, considered the leader of the five men, was sentenced for burning a 6-foot cross in Dwayne and Maria Ross' front yard June 19, a day that commemorates the freeing of slaves in Texas.

Before he was sentenced, Marshall read a statement apologizing to the Ross family and to the city of Katy "for scarring its image."

"I am not a racist," he said, and

juana.

"I did this with an altered mind, not a hateful heart," Marshall said, calling the incident "a gross misunderstanding."

"But I did hurt you, and I did break the law. I hope you can put this ugly nightmare behind you," he said.

Marshall had pleaded guilty to conspiracy, willful intimidation because of race or color and using fire in the commission of a felony. After Marshall completes his prison term, he will serve three years of released supervision.

At Marshall's sentencing Monday, U.S. District Judge David Hittner said Marshall — using a racial slur — suggested he and his friends "go burn a cross in some (black's) yard." Hittner, reading from court documents, said

helped ignite the blaze.

Marshall also chided his friends as "wimps" and other derogatory terms until they agreed to do his bidding, the judge said.

Hittner pointed out that during the investigation, Marshall said he would "kill anyone" who reported the group.

The judge quoted Marshall's father, who testified in an August detention hearing that he regularly used racial slurs to describe blacks, Hispanics and Chinese-Americans.

"It seems the seeds of his (the defendant's) racism were sown at home," Hittner said.

The night of the incident, Marshall took a post-hole digger to place the cross in the center of the yard, the judge

color of law. The jury found that Rodgers, a Houston Police Officer since 1983, conspired to steal \$30,000 from a drug dealer. Rodgers used his authority as a police officer to stop the car, thereby allowing his co-conspirator to steal \$30,000 in cash and place the money in Rodgers' unmarked police car. Rodgers' plan unraveled when other police officers arrived on the scene and discovered the money. AUSA: Gerald Doyle and Mai Linh Spencer, DOJ Criminal Civil Rights Section; AGENCY: FBI, DEA, & HPD-IA.

ENVIRONMENTAL CRIMES

The Environmental Crimes Unit works to prosecute crimes concerning the release of hazardous waste into waterways, illegal transportation of hazardous waste and violations of the laws protecting endangered species.

Significant environmental cases in 2000 involved smuggling and illegal dumping. A Denver businessman, Kenneth McManus, was convicted under the Clean Air Act of smuggling 2,400 pounds of dichlorodifluoromethane, also known by the trade name Freon-12, from Saudi Arabia into the U.S.

A Los Angeles woman was convicted for smuggling 1500 sea turtle eggs from El Salvador into the United States. Sea Turtle eggs are prohibited from being imported without the appropriate permit because of their status as threatened or endangered wildlife.

On the night of June 19, 2000 five young men set a six-foot cross on fire at the home of an African-American family living in Katy, Texas. The FBI, acting on information obtained from a confidential informant, arrested the men soon after the incident. They were charged with violating the civil rights of the African-American family by infringing on their right to occupy their home without intimidation and interference because of their race and color. The co-conspirators received sentences ranging from 13 months to 37 months after pleading guilty. The lead defendant, Matthew Marshall, received 10 years for using fire in the commission of a felony. AUSA Ruben R. Perez and Daniel Velez, DOJ Criminal Civil Rights Section; AGENCY: FBI & Harris County Precinct 5 Constable's Office.

HOUSTON POLICE OFFICER GUILTY OF CIVIL RIGHTS VIOLATION

Cedric Rodgers, of Houston, will be spending the next 41 months in prison. Following a four day trial, a jury found Rodgers guilty of depriving another person of civil rights while acting under

The owner of a sewage removal and transportation business was convicted under the Clean Water Act of dumping sewage removed from septic systems into the San Jacinto River instead of disposing of it properly at a licensed facility. The San Jacinto River empties into Lake Houston where the City of Houston obtains a substantial amount of its drinking water.

A ship captain and his chief engineer were convicted of dumping fuel oil residue in the Atlantic. In a separate case, a ship and barge cleaning company was convicted of a Clean Water Act violation and paid a \$25,000 fine and agreed to pay a total of \$975,000 to the Coastal Conservation Association and the Galveston Bay Foundation to demonstrate its commitment to a better environment.

POST-TRIAL LITIGATION

Successful prosecution of criminal offenses regularly involves post-trial litigation. Criminal appellate litigation is the responsibility of the Appellate Division. The work of these attorneys before the Fifth Circuit Court of Appeals clarifies issues and sets standards that guide criminal procedure.

In 2000, the U.S. Attorney's Office litigated 355 criminal appeals before the Fifth Circuit Court of Appeals. In addition to the criminal appeals, the Appellate Division manages a full docket of other post conviction matters. In 2000 there were 161 such matters involving primarily habeas corpus petitions under 28 U.S.C. § 2255.

The cases below represent the types of issues addressed in criminal appeals taken before the Fifth Circuit:

In *U.S. v. Chavez-Chavez*, 205 F.3d 145 (5th Cir.2000), the Fifth Circuit upheld an investigatory stop by experienced Border Patrol agents of a van that was being driven early in the morning outside of Corpus Christi. Notwithstanding that the stop occurred 150 miles north of the border, the court found that regular use of the highways for alien smuggling activity coupled with the unkept appearance of the passengers, the nervous appearance of the driver and the rigid suspension of the van, supported the finding of reasonable suspicion of criminal activity. Briefed by AUSA Jeffery Babcock.

U.S. v. Tovias-Marroquin, 218 F.3d 455 (5th Cir. 7/11/2000). The court held that a 8 U.S.C. § 1326, illegal reentry, did not create a "status offense" in violation of a defendant's right to due process of law. Defendants are required to commit an act, to wit, reentering the U.S. without permission. Briefed by AUSA David Peck.

U. S. v. Drones, 218 F.3d 496 (5th Cir. 7/25/ 2000). The government appealed the district court's vacatur of conviction grounded on ineffective assistance of counsel. District court grounded ineffective assistance finding on counsel's failure to investigate and present voice identification evidence. The court of appeals reversed noting that "the uncertainty of the current state of the law regarding the reliability and admissibility of expert voice identification evidence" led to the conclusion that counsel's failure to pursue that defense was not unreasonable. Briefed and argued by AUSA Kathy Snyder.

U.S. v. Deavours, 219 F.3d 400 (5th Cir. 7/ 13/2000). The court held that the appropriate measure of "intended loss" for purposes of sentencing a defendant involved in a Ponzi scheme is the amount the defendant placed at risk by misappropriating money or other

property and is not reduced by any sum returned to investors in the form of payments to further promote the scheme. Briefed by AUSA James Turner.

U.S. v. Wise and Grebe, 221 F.3d 140 (5th Cir. 7/31/2000). The court of appeals made two significant holdings in this case involving terrorist threats. First, the court held that the phrase “without lawful authority” in 18 U.S.C. § 2332a is an affirmative defense, not an element of the offense. Second, the defendants could be convicted of aiding and abetting of knowingly and intentionally threatening to use a weapon of mass destruction, even though the principal was a government agent authorized by the FBI to send threatening e-mails. Briefed by AUSA Paula Offenhauser and argued by AUSA Tony Roberts.

U.S. v. Guerrero, 234 F.3d 259 (5th Cir. 11/22/2000). The court upheld a conviction for making a false statement on an ATF form in connection with the attempted acquisition of a firearm, a violation of 18 U.S.C. 922(a)(6), noting that the fact that a background check was required under the Brady Act did not preclude a finding that a false statement was likely to deceive a dealer. Briefed and argued by AUSA Jim Powers.

U.S. v. Lyckman, _ F.3d _ (5th Cir. 12/7/2000). This appeal was from a judgment of conviction for distributing or receiving child pornography. The court held that sexual penetration of a prepubescent female qualified as “sadistic or violent” conduct within the meaning of the sentencing guideline applicable to material portraying sadistic or masochistic conduct or other depictions of violence. Briefed by AUSA Kathy Snyder.

U.S. v. Garay, _ F.3d _ (5th Cir. 12/7/2000). The court held a defendant’s status as a deportable alien, an inherent element of

an immigration offense of which he was convicted, was necessarily taken into account by the Sentencing Commission in establishing the offense level and was not a permissible basis for a downward departure. Briefed by AUSA Tim Hammer.

U.S. v. Guzman-Ocampo, _ F.3d _ (5th Cir. 12/21/2000). The court held that a violation of 18 U.S.C. § 1326 is a general intent offense and the government need not allege a specific intent to re-enter the U.S. illegally. Briefed by AUSA Kathy Snyder.

U.S. v. Reyes-Lugo, _ F.3d _ (5th Cir. 1/3/2001). The court held that a federal sentencing court was not required to run a federal sentence concurrently with an undischarged state term. Briefed by AUSA Katherine Haden, argued by AUSA Tony Roberts.

U.S. v. Marek and Cisneros, _ F.3d _ (5th Cir. 1/4/2001). In a 10-5 decision, the *en banc* Fifth Circuit Court of Appeals upheld two murder-for-hire convictions holding that even intrastate use of any facility of interstate commerce will permit a federal court to exercise its jurisdiction. Briefed and argued by AUSA Kathy Snyder.

U. S. v. Ceballos-Torres, 218 F.3d 409 (5th Cir. 2000). One of the first cases to construe 18 U.S.C. § 924(c)(1)(A)(i) after *Bailey v. U.S.*, 516 U.S. 137 (1995). The court held that possession of a firearm is in furtherance of a drug trafficking offense when it furthers, advances, or helps forward the narcotics offense. The weapon was found on the defendant’s bed while the agents were performing an immigration check. The court of appeals upheld the district court’s finding that the weapon was used to protect the contraband and the money from robbery. Briefed and argued by AUSA Jeffery Babcock.